

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION
4 - - -

5 IN RE: NATIONAL : HON. DAN A.
6 PRESCRIPTION OPIATE : POLSTER
7 LITIGATION :

8 This document relates to: : NO.
9 : 1:17-MD-2804

10 County of Cuyahoga, et :
11 al. v. Purdue Pharma L.P., :
12 et al., Case No. 17-OP- :
13 45004 (N.D. Ohio) :

14 County of Summit, Ohio et :
15 al. v. Purdue Pharma L.P., :
16 et al., Case No. 18-OP- :
17 45090 (N.D. Ohio) :

18 - - -

19 - HIGHLY CONFIDENTIAL -
20 SUBJECT TO FURTHER CONFIDENTIALITY REVIEW
21 April 25, 2019

22 Videotaped deposition of
23 JONATHAN GRUBER, Ph.D., taken pursuant to
24 notice, was held at the law offices of
25 Robins Kaplan, 800 Boylston Street,
26 Boston, Massachusetts, beginning at 10:06
27 a.m., on the above date, before Michelle
28 L. Gray, a Registered Professional
29 Reporter, Certified Shorthand Reporter,
30 Certified Realtime Reporter, and Notary
31 Public.

32 - - -

33 GOLKOW LITIGATION SERVICES
34 877.370.3377 ph | 917.591.5672 fax
35 deps@golkow.com

1 A. No, I didn't.

2 Q. With respect to the entities
3 who are defendants in this lawsuit,
4 you're not saying that each defendant is
5 jointly and severally liable for the
6 damages to the bellwether government
7 entities, are you?

8 MR. KO: Object to the form.

9 THE WITNESS: I'm not really
10 speaking to that issue.

11 BY MR. GEISE:

12 Q. You don't have an opinion on
13 that, correct?

14 MR. KO: Same objection.

15 THE WITNESS: I'm an
16 economist. That's a legal
17 question.

18 BY MR. GEISE:

19 Q. If I can turn your attention
20 to Paragraph 16 of your report that spans
21 from Page 8 to Page 10. Look at the
22 first bullet point on Paragraph 16. You
23 write, "There is a direct causal
24 relationship between defendants'

1 shipments of prescription opioids and the
2 misuse and mortality from prescription
3 opioids with geographic areas that
4 received higher volumes of per capita
5 shipments of prescription opioids
6 experiencing significantly higher rates
7 of opioid-related misuse and mortality,
8 including the bellwether jurisdictions."

9 Do you see that?

10 A. Yes, I do.

11 Q. As stated in this paragraph,
12 does prescription opioids include
13 prescription opioids that are used both
14 for medical purposes and those that are
15 not used for medical purposes?

16 MR. KO: Object to the form.

17 THE WITNESS: This uses data
18 from ARCOS shipments, which I do
19 not believe distinguishes the
20 purpose of the prescription
21 opioid.

22 BY MR. GEISE:

23 Q. If you look at the next
24 bullet point on the top of Page 9, you

1 of Exhibit 6. In -- in the first full
2 paragraph, the authors write, "However,
3 there are reasons to view the causal
4 relationship between PO" -- which is
5 prescription opioid -- "availability and
6 use of heroin use as only a partial
7 explanation for the recent increase in
8 heroin use and subsequent harms.

9 "First, drug use gateway
10 arguments in general have been widely
11 discredited and should be viewed with
12 caution."

13 Do you see that?

14 A. Yes.

15 Q. And are you aware of the
16 literature that cautions that gateway
17 arguments have been discredited?

18 A. I do not agree with
19 discredited. I'm aware of the literature
20 that's questioned gateway arguments which
21 are largely based on correlations, not
22 causal inferences.

23 MR. GEISE: Why don't we
24 take a break now.

1 But I agree in the study he
2 carries out, this is really establishing
3 a correlational link as we've discussed
4 with this reference to Table 1.1.

5 Q. So with regard to Table 1.1
6 and the Jones study, you agree that all
7 it establishes is correlation and not
8 causation?

9 MR. KO: Object to the form.

10 THE WITNESS: I -- I'm
11 sorry. I missed what you said.

12 MR. KO: I just objected to
13 the form. Go ahead.

14 THE WITNESS: I agree that
15 the Jones study does not establish
16 causality to the standards that I
17 would like.

18 BY MR. GEISE:

19 Q. In the heading to Table 1.1
20 in your report, you use the term
21 "establishing the link."

22 When you say "establishing
23 the link," does that mean establishing
24 correlation or establishing causation?

1 A. I -- when I say establishing
2 the link, what I'm trying to mean is I
3 mean that temporally to show that these
4 studies show that there is a link from --
5 you know, there is a link from the use of
6 prescription opioids to the use of other
7 illicit opioids. I don't mean that to
8 say that these studies are -- are causal
9 evidence of that link.

10 But that -- once again, that
11 doesn't mean that they're useless. That
12 means that one wants to use them in a
13 portfolio of considerations.

14 If -- it is always useful in
15 economic studies, or it's often useful in
16 studies of health economics, to
17 supplement the statistical analysis with
18 understanding of what's going on behind
19 the data that epidemiological studies can
20 provide.

21 (Document marked for
22 identification as Exhibit
23 Gruber-10.)

24 BY MR. GEISE:

1 Q. Do any of the five studies
2 address manufacturers' shipments of
3 prescription opioids?

4 A. I don't know what you mean
5 by address. Can you maybe be clearer of
6 what you're asking? I don't understand.

7 Q. Mention, discuss?

8 A. I don't recall if they do.

9 Q. Do any of the five studies
10 mention or discuss the distributors'
11 shipments of prescription opioids?

12 A. I don't recall.

13 Q. Do you agree that the
14 studies upon which you rely do not
15 examine the causal effect of any conduct
16 by the defendants?

17 MR. KO: Object to the form.

18 THE WITNESS: Once again,
19 the -- the -- there's two elements
20 wrapped up in that statement.
21 There's the question of causal and
22 the question of defendants.

23 As we said, these are not
24 causal studies, the standards of

1 the economics literature. They
2 are part of a suite of evidence
3 I'm developing that show
4 epidemiologically why a link makes
5 sense of the type that I'm sort of
6 showing statistically the
7 economics analysis.

8 The second question is
9 defendants. I don't believe they
10 focus specifically on the
11 defendants, but the defendants do
12 represent the majority of opioid
13 manufacture and shipment. And
14 they do in at least some studies,
15 like the one we just looked at,
16 talk about a drug produced
17 primarily by the defendants, if
18 not exclusively, in OxyContin.

19 BY MR. GEISE:

20 Q. You said that the studies
21 you look at show that the link makes
22 sense. Do you recall using that term?

23 A. Yes.

24 Q. Okay. Would you agree that

1 even if the studies show that the link
2 makes sense, these studies themselves do
3 not prove a causal relationship?

4 A. These studies do not prove a
5 causal relationship to the standards that
6 we use in economics literature.

7 Q. So looking specifically at
8 this sentence and Paragraph 89 of your
9 report, Professor Gruber, isn't it
10 incorrect to say that these studies
11 establish that prescription opioids have
12 become the predominate gateway to heroin
13 use, a pattern not observed in earlier
14 decades, and thus that the illicit opioid
15 crisis is a direct result of defendants'
16 misconduct?

17 MR. KO: Object to the form.

18 THE WITNESS: I don't think
19 so.

20 BY MR. GEISE:

21 Q. Would you agree that these
22 studies, the five studies that you looked
23 at, do not discuss the defendants'
24 misconduct or alleged misconduct at all?